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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,705	01/14/2004	Harry J. Last	DEN-1693.19	6556
7590 01/13/2006			EXAMINER	
NEWHOUSE & ASSOCIATES Twin Oaks Office Plaza Suite 112 477 Ninth Avenue San Mateo, CA 94402-1854			FETSUGA, ROBERT M	
			ART UNIT	PAPER NUMBER
			3751	
DATE MAILED: 01/13/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/758,705	<b>Applicant(s)</b> LAST, HARRY J.	
	<b>Examiner</b> Robert M. Fetsuga	<b>Art Unit</b> 3751	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11/09/04 & 01/18/05.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 and 12-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 12-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>See Continuation Sheet</u> .           |

Continuation of Attachment(s) 6). Other: 11 pages of specification for patent no. 3,885,255.

1. The status of the parent application(s) should be updated.
2. The proposed drawing correction filed on January 18, 2005 is disapproved as containing new matter. The particular structure added to Fig. 4 as reference numeral "420" is not supported by the originally filed disclosure.

The drawings are objected to for the reasons set forth in section 3 (paragraph 1 only) of the Office action mailed July 12, 2004. The proposed drawing corrections filed on January 18, 2005 would be acceptable to overcome these discrepancies provided the new matter noted supra was not included therewith.

3. The disclosure is objected to because of the following informalities: Page 14, line 7, reference to numeral "352" as a "cable portion" is apparently inaccurate, and line 10, "counterclockwise" apparently should be --clockwise--; page 15, line 3, "clockwise" apparently should be --counterclockwise--; page 15, line 21 and page 17, line 25, reference numeral "402" designates different elements; and page 18, line 22, "340u" apparently should be --340--.

Appropriate correction is required.

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "actuator" set forth in claim 1, and

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"method" set forth in claim 19, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

5. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Proper antecedent basis for the "enclosed housing portion" set forth in claim 1, "housing" set forth in claim 7, subject matter set forth in claims 15 and 16, and "providing" step set forth in claim 19, could not be found in the specification. Applicant is reminded claim terminology in mechanical cases should appear in the descriptive portion of the specification by reference to the drawing(s).

6. The amendment filed November 09, 2004 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: Reference to element "420" (pg. 17 ln. 23) as embodied in amended Fig. 4. Also, claim 6 is supported by the new matter.

Applicant is required to cancel the new matter in the reply to this Office Action.

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7. Claim 6 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The claim recites "master hydraulic fluid valve/rotor cap/diverter valve assembly". Implementation of this subject matter is neither taught by the instant disclosure nor evident to the examiner. The vague illustration proposed for Fig. 4 would not teach one how to implement this subject matter.

8. Claim 9 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The claim recites "the hydraulic fluid cylinder is also coupled to a central drive shaft...". Implementation of this subject matter is neither taught by the instant disclosure nor evident to the examiner.

9. Claim 19 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art

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to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The claim recites "actuating the hydraulic or pneumatic cylinder". Implementation of this subject matter is neither taught by the instant disclosure nor evident to the examiner..

10. Claims 1 and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is unclear as to the metes and bounds of the term "mechanical linkage". Applicant amended the instant specification (pg. 18 ln. 21+) to define this element as including a drive cable. However, claim 5, dependent from claim 1, also recites a drive cable.

Claim 19 is unclear as to whether a method or apparatus is intended to be claimed since steps of the "method" appear to provide positive structural antecedent basis for the swimming pool.

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 1-6 and 17-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Vorbach et al.

The Vorbach et al. (Vorbach) reference (Fig. 8) discloses a traveling drum enclosure comprising: a housing portion/drum enclosure 45 including a plurality of wheels 47; a linkage 35; an actuator 15; a central drive shaft (connected to 38); a remote power pack (paragraph 27, lines 7-11); and a swimming pool 1-4, as claimed. Re claims 2, 3, 6 and 17, note paragraph 27, lines 6-7.

Applicant argues at pages 19-20 of the response filed November 09, 2004 the Vorbach reference should be withdrawn because no copy is available. In response, a copy of the specification portion (11 pgs.) of Vorbach is included herewith. Applicant argues at pages 20-21 of the response Vorbach does not disclose an enclosure structure. The examiner can not agree.



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Vorbach teaches a carriage 45 which can be broadly considered an "enclosure" as parts of the drum would be "enclosed" thereby.

Applicant's remaining remarks at pages 21-22 of the response have been fully considered and either have been previously addressed or are not deemed persuasive in view of the prior art as specifically applied as compared to the instant disclosure.

13. Claims 1-6 and 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vorbach and Varnado.

Although the Vorbach traveling drum may not include a drum enclosure, as disclosed, attention is directed to the Varnado reference which discloses an analogous traveling drum which further includes a drum enclosure 12. Therefore, in consideration of Varnado, it would have been obvious to one of ordinary skill in the traveling drum art to associate a drum enclosure with the Vorbach traveling drum in order to facilitate cleaning a cover.

Applicant failed to address this ground of rejection in the response.

14. Claims 1-9 and 12-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vorbach alone, or taken with Varnado as applied to claims 1, 17 and 19 above, and further in view of Janetzko et al.

Although the Vorbach hydraulic fluid actuator may not include a cylinder/rod, as claimed, attention is directed to the Janetzko et al. (Janetzko) reference which discloses an analogous hydraulic fluid actuator which further includes a cylinder/rod 3,4. Therefore, in consideration of Janetzko, it would have been obvious to one of ordinary skill in the hydraulic fluid actuator art to associate a cylinder/rod with the Vorbach hydraulic fluid actuator in order to utilize a common hydraulic fluid actuator.

Applicant failed to address this ground of rejection in the response.

15. Applicant is referred to MPEP 714.02 and 608.01(o) in responding to this Office action.

16. The grounds of rejection have been reconsidered in light of applicant's arguments, but are still deemed to be proper.

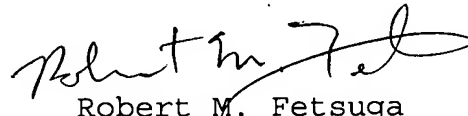
**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will

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expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

17. Any inquiry concerning this communication should be directed to Robert M. Fetsuga at telephone number 571/272-4886 who can be most easily reached Monday through Thursday. The Office central fax number is 571/273-8300.



Robert M. Fetsuga  
Primary Examiner  
Art Unit 3751